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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/683,787	02/14/2002	David P. Lobeck	DL01	2195

27797 7590 12/04/2008

RICHARD D. FUERLE
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GRAND ISLAND, NY 14072

EXAMINER

ART UNIT	PAPER NUMBER
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DATE MAILED: 12/04/2008

Please find below and/or attached an Office communication concerning this application or proceeding.

Communication Re: Appeal	Application No.	Applicant(s)	
	09/683,787	LOBECK, DAVID P.	
	Examiner	Art Unit	
	Paul D' Agostino	3713	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

1. ☒ The Notice of Appeal filed on 05 November 2008 is not acceptable because:
- (a) ☐ it was not timely filed.
 - (b) ☐ the statutory fee for filing the appeal was not submitted. See 37 CFR 41.20(b)(1).
 - (c) ☐ the appeal fee received on _____ was not timely filed.
 - (d) ☒ the submitted fee of \$165.00 is insufficient. The appeal fee required by 37 CFR 41.20(b)(1) is \$255.00.
 - (e) ☐ the appeal is not in compliance with 37 CFR 41.31(a)(1) in that no claim has been twice rejected.
 - (f) ☐ a Notice of Allowability, PTO-37, was mailed by the Office on _____.
2. ☒ The appeal brief filed on 11/05/08 is NOT acceptable for the reason(s) indicated below:
- (a) ☐ the brief and/or brief fee is untimely. See 37 CFR 41.37(a).
 - (b) ☐ the statutory fee for filing the brief has not been submitted. See 37 CFR 41.20(b)(2).
 - (c) ☒ the submitted brief fee of \$165.00 is insufficient. The brief fee required by 37 CFR 41.20(b)(2) is \$255.00.

The appeal in this application will be dismissed unless corrective action is taken to timely submit the brief and requisite fee. See 37 CFR 41.37(a)(1). Extensions of time may be obtained under 37 CFR 1.136(a). See 37 CFR 41.37(e).

3. ☐ The appeal in this application is DISMISSED because:
- (a) ☐ the statutory fee for filing the brief as required under 37 CFR 41.20(b)(2) was not timely submitted and the period for obtaining an extension of time to file the brief under 37 CFR 1.136(a) has expired.
 - (b) ☐ the brief was not timely filed and the period for obtaining an extension of time to file the brief under 37 CFR 1.136(a) has expired.
 - (c) ☐ a Request for Continued Examination (RCE) under 37 CFR 1.114 was filed on _____.
 - (d) ☐ other: _____.
4. ☐ Because of the dismissal of the appeal, this application:
- (a) ☐ is abandoned because there are no allowed claims.
 - (b) ☐ is before the examiner for final disposition because it contains allowed claims. Prosecution on the merits remains CLOSED.
 - (c) ☐ is before the examiner for consideration.

	/Everett R. Williams / Everett R. Williams Patent Appeals Center 571-272-3619
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